

Submission from Straterra to the Department of Conservation Proposals to modernise the conservation system February 2025

Introduction

1. Straterra is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. Thank you for the opportunity to make a submission on the [Proposals to modernise the conservation system](#) and specifically the discussion documents:
 - [Exploring charging for access to some public conservation land](#) and
 - [Modernising conservation land management](#).
3. Our submission comments on the issues in these documents that relate to mining on conservation land. We are happy to meet and/or discuss the content of this submission and any wider implications at any time.
4. We also provide an appendix with some background information relating to mining on conservation land as there is a lot of misinformation and misunderstanding about the subject.
5. We note in the Foreword of the Modernising conservation land management document that the Minister of Conservation says that the proposals in this discussion document aim to lower costs on businesses among other things. We are supportive of this aim and believe it should be top of mind as the proposals in the document are considered.

Key points

6. We welcome the Minister of Conservation's comments that the proposals being consulted on aim to lower costs on businesses.
7. We would be concerned if the drive to simplify planning documents resulted in blanket bans or activities, such as mining, that are an integral part of most conservation districts, not being recognised and provided for in these.
8. We do not support the class approach to determining whether or not a concession is issued, instead, we prefer a case-by-case approach.
9. If there has to be a class / category approach, we recommend:
 - deleting the 'Prohibited activity' category, and
 - introducing a new category where concession applications are able to be considered on their merits on a case-by-case basis ie a 'Discretionary activity' category.

10. The statutory timeframes proposed in 5.3.6 would speed up revisions to plans and we support them. It is important however, that there are mechanisms to ensure timeframes are achieved.
11. We do not support giving the Minister of Conservation power to approve the National Conservation Policy Statement (NCPS) and area plans.
12. We recommend caution be taken where the Minister takes decisions to decline applications where the applicant does not have the financial means to execute the concession as often it is not until a company has obtained approval for a project, that it is able to secure funding.
13. Sometimes iwi and hapū are under resourced to deal with the level of government-imposed consultation that is thrust upon them.
14. Competitive allocation of concessions would not work well for mining related activities, because they have a locational and functional need to occur and there are risks losing a competitive tender for a concession for one part of the project would jeopardise the overall project.
15. There is a strong case for removing the requirement for concessions for mining operations. This could be achieved by allowing mineral permits to cover all land that is required for the mining and associated activities and not just the mining of the mineral.
16. Mining tourism should be part of the enhanced tourism on conservation land goal (mining heritage and recreation on rehabilitated land). It would also help dispel the myths about mining on conservation land. There is already some mining tourism activity in New Zealand.
17. We support more flexibility for the Government to exchange, transfer, or dispose of parcels of conservation land. This can benefit both miners and the Department of Conservation (DoC) with enhanced conservation outcomes as well as wider benefits for society.
18. We support overturning the Ruataniwha Dam case law. In land exchanges the conservation value of the land being received by the Crown needs to be considered and conservation land should not be confined to stewardship land and marginal strips nor just “no or very low conservation value” land.
19. The use of compensation fees is a useful part of mitigation options that are available to both DoC and applicants.
20. Where land with a concession attached to it is transferred to another party, the concession and all its conditions should continue for the existing permit holder in spite of there being a new owner of the land.
21. We support simplifying the charging system for miners who are currently subject to a range of charges for access arrangements and concessions but there is no case for raising the overall charges miners pay. We will be pleased to work with officials at the appropriate time to consider how reconfiguring mining charges can be improved.

Modernising conservation land management

22. In this section we comment on the discussion document [Modernising conservation land management](#).

Section 5 – Streamlining the conservation management system

5.1 Simplifying the management structure

23. We agree the time and cost of reviewing planning documents (for officials and the public) is too great and so we support a single national conservation policy statement as proposed in section 5.1.1 and a single layer of area-based plans as proposed in section 5.1.2.
24. The plan development and consultation, including the use of conservation boards, is chewing up resources that could be spent elsewhere.
25. What is important for us is that mining is recognised and provided for in the plans. We would be concerned if the drive to simplify resulted in higher order documents imposing blanket bans or not recognising and providing for activities, such as mining, that are an integral part of most conservation districts.

5.2 Enabling class approaches to concessions

26. Exploration and mining activity on conservation land is governed by the Crown Minerals Act through exploration or mining permits and associated access arrangements. But concessions are still needed for associated activities outside that footprint (ie located outside of the Crown minerals permit boundary) for example, access roads, water treatment plants, administration buildings, parking for mobile plant, and aircraft movements, to name a few.
27. We do not support the class approach to determining whether or not a concession is issued as outlined in *Section 5.2, Enabling class approaches to concessions*.
28. There is a risk under this proposed approach that a mining company won't be able to make its case / apply for a concession (for a component of the mining project as described in paragraph 26 above). This means the mining operation or project as a whole could be disrupted or unable to proceed without consideration of the merits of the proposal and/or the investment that has already occurred.
29. Instead, we prefer a case-by-case approach.
30. The class approach outlined in section 5.2 and Table 4 refers to three categories – 'Exempted activities', 'Activities permitted in advance', and 'Prohibited activities'.
31. Under these categories, we see that the majority of mining associated activities could fall between 'Exempted activities' / 'Activities permitted in advance' and the 'Prohibited activities' category. This would not leave any ability to provide a regulatory pathway or concession for these activities.
32. Also, a high number of mining associated activities will fall into the 'Prohibited activities' category if this is applied to areas of conservation value, such as kiwi habitat, and a blanket ban type approach to these or other areas is taken.
33. If there has to be a class / category approach, we recommend:
 - deleting the 'Prohibited activity' category, and
 - introducing a new category where concession applications are able to be considered on their merits on a case-by-case basis (ie a 'Discretionary activity' category).
34. In Table 4, the example of building structures in kiwi habitats is given. There are several instances where concessions for associated mining activities (e.g. roads, water treatment plants, and mineral processing areas) occur within kiwi habitats and the effects of these are effectively managed and

mitigated such that there are no adverse effects and instead, conservation gains are often achieved in this regard.

35. We do not support unnecessary regulatory blanket bans (i.e. prohibited activities), especially where adverse effects are able to be mitigated and managed.

5.3 Proposed process for making statutory planning documents

36. The statutory timeframes proposed in 5.3.6 would speed up revisions to plans and we support them. It is important however that there are mechanisms to ensure timeframes are achieved.

5.3.3 The Minister would approve the NCPS and area plans

37. Section 5.3.3 proposes the Minister of Conservation approves the National Conservation Policy Statement (NCPS) and area plans. We are cautious about giving the Minister too much power. Checks and balances are needed in case there is a future situation where a person ideologically opposed to mining is appointed as Conservation Minister.

Section 6 – Speeding up concession processing

6.1 Improving the triage of applications

38. It is proposed that the Minister can decline applications if the applicant does not have the financial means to execute the concession. We recommend caution here as it is often not until a company has obtained approval for a project, that it is able to go to the market to secure funding thereby placing it in a chicken and egg situation.

6.2 Clarifying Treaty partner engagement requirements

39. Sometimes iwi have interests in protecting certain land from mineral development (e.g. cultural and wāhi tapu). At the same time, some iwi have significant interests in the resource sector for historical, cultural and economic reasons and retaining the right to access and to develop minerals is important.
40. Relationships between the industry and iwi and hapū is generally strong in most parts of New Zealand where mining occurs and mining company consultation with local iwi occurs as a matter of course.
41. We agree with the content in section 6.2 of the document that sometimes iwi and hapū are under resourced to deal with the level of government-imposed consultation that is thrust upon them.

Section 7 – Driving better performance and outcomes from concessions

7.1 Enabling competitive allocation of concession opportunities

42. We agree a move away from the first-come, first-served allocation of concessions could be beneficial for both conservation and economic outcomes. However, competitive allocation of concessions as an alternative would not work well in the case of mining related activities, largely because they are issued for activities which have a locational and functional need to occur.
43. We also note that there are cases, especially in the context of mine access roads, where more than one activity or use of conservation land can co-exist. Concession allocation should not prevent this.
44. As is well understood, concessions are needed by mining companies so that associated activities not covered by an access arrangement can be undertaken. For example, when a miner needs a

concession to build an access road to a mine. Such activities only occur in relation to a mining operation and are needed for the mining operation to occur.

45. This means if a miner were to lose a competitive tender for a concession to build an access road to a mine, the overall mining project for which the access arrangement and other approvals have been given could be jeopardised.
46. Competitive allocation could encourage a competitor or a mining opponent to come in and compete for the land where a concession is needed. They may put in a higher bid for the concession land just to impede or prevent the wider mining proposal going ahead and which may be of higher overall value
47. As with the allocation of mining permits, the capability of the applicant should be taken into account as part of the criteria.
48. A compensation regime should be put in place so that if a miner loses their concession to another party, compensation would need to be paid for any investment that the miner has already made, not just for the concession activity itself but for the whole mining project which relies on the concession, if an alternative cannot be provided and the project is impacted. For example a concession for a mine access road.
49. We support the strategic allocation of concessions. Conservation value will obviously be an important consideration in allocating concessions but we argue economic benefits to society from conservation land access should also be considered and these should not be confined to just recreational and tourism uses.
50. It is outside the scope of this consultation, but because miners are covered by access arrangements and concessions, we think there is a strong case for removing the requirement for concessions for mining operations. This would require amending the Crown Minerals Act, and possibly the Conservation Act, so that minerals permits (or a re-introduction of a permit version of the old ancillary licences) cover all land that is required for the mining and associated activities and not just the mineral. That way activities that are currently subject to concessions could be included in a single access arrangement.

7.1.3 Criteria for deciding how to competitively allocate

51. We don't support competitive allocation in relation to concessions for land that is used for mining related activities because these and mining are fixed in their locations but the points are good and could be used for many concession applications.

Section 8 – Unlocking amenities areas to protect nature and enhance tourism

52. We support the goal of enhanced tourism on conservation land and we note that mining tourism is often an important subsector of tourism. This can be in the form of mining heritage and also modern and/or rehabilitated mine sites which can and do attract visitors for recreational purposes.
53. While the economic contribution of mining tourism will always be minor relative to that of mining, we think the opportunities here and the issues which surround it should be incorporated into the document. It is important in dispelling the myths and misinformation about mining on conservation land to be able to offer the public/tourists the opportunity to see the reality for themselves and learn how different historical and modern mining are from each other.

Section 9 – Enabling more flexibility for land exchanges and disposals

54. We support more flexibility for the Government to exchange, transfer, or dispose of parcels of conservation land.
55. Exchanges and disposals of land parcels can benefit both miners and the DoC and can result in enhanced conservation outcomes as well as wider benefits for society.
56. Conservation land which is suitable for mining should be allowed to be exchanged for private sector land more suited for conservation purposes.
57. From DoC's point of view, being forced to retain some parcels of conservation land can draw resources away from more effective investments on other areas of the conservation estate. Enabling land to be exchanged or disposed of can raise funds for conservation purposes (e.g. pest control) and/or ensure the land is being held by an owner, best able to optimise the conservation value. Miners are often better placed than DoC to do this and miners on the conservation estate are engaged in pest control, kiwi breeding programmes, and other conservation projects.
58. The aim of more flexible land exchange and disposal settings should be to support all Government priorities (including economic) while still providing a net conservation benefit and safeguarding vulnerable biodiversity.

Ruataniwha Dam Supreme Court decision

59. We agree with the assessment on page 58 of the document regarding the Supreme Court's 2017 Ruataniwha Dam decision which reduced the flexibility for land exchanges to occur even further than the Conservation Act does.
60. There is a compelling case for overturning the Ruataniwha Dam case law on land exchanges. When it comes to assessing the net conservation value, the conservation value of the land being received by the Crown also needs to be considered. Provided there is an overall enhancement in conservation values, land exchanges should be facilitated, rather than prevented.
61. We note that the conservation status of land does not always equal the conservation values of that land, or part of that land.
62. The scope of land disposal and exchange mechanisms should not be confined to stewardship land and marginal strips but include all conservation land categories. Neither should it be confined to just "no or very low conservation value" status. A case-by-case assessment may deem it appropriate for high value conservation land to be transferred in some cases.

Compensation

63. DoC often includes compensation fees within concessions in order to mitigate the loss of conservation values from an activity, including mining associated activities. Any compensation fees are assessed as part of the mitigation package that is offered by the applicant together with the conservation values to be lost, thereby, they are variable in nature. The monies generated by these fees are able to be used at the discretion of DoC and put towards their conservation priorities.
64. The use of compensation fees is a useful part of mitigation options that are available to both DoC and applicants.

Land is surplus to conservation needs

65. We support the wording on page 60 that land disposals should be restricted to situations where “land is surplus to conservation needs”, although there will be different views as to how this is defined. If a commercial or non-government entity, including an iwi, can make a strong case for disposal, that case should be considered by the Government. If the Government agrees to such a proposal the land will, by definition, be surplus to conservation needs.

Right of First Refusal

66. Iwi often have a Right of First Refusal on disposal of Crown land and exchanges are not always straightforward or a viable option in practice.

Concessions transferring with change of ownership

67. Where land with a concession attached to it is transferred to another party, for example an iwi as part of a Treaty settlement or otherwise, there needs to be clarity as to what happens to the concession. In such a case, the concession and all its conditions should continue for the existing holder in spite there being a new owner of the land.

Privatisation

68. Miners need the ability to apply for access to / use of the conservation estate, with all the appropriate conditions that entails. The mining sector is not looking at these land exchanges and disposals as an opportunity to take ownership of large quantities of conservation land, as has been implied by some commentators.

Exploring charging for access to some public conservation land

69. The discussion document, [Exploring charging for access to some public conservation land](#), looks at the issue of exploring charging for access to some public conservation land.

70. Mining is outside the scope of the discussion document, but we are aware that Cabinet has asked officials to investigate the introduction of rent for access for mining activities on public conservation land¹ so in light of that we make these brief comments on access charges.

71. Miners already pay a number of charges for access arrangements and concessions. These include “activity fees”, “management fees”, “monitoring fees”, “industrial intrusion” charges, and various other charges to deal with the compensating for loss of conservation values. As well as making the charging system complicated and oblique, the range of fees and charges meant that in aggregate the payment miners make to the Government is substantial.

72. We support simplifying and streamlining the charging system but there is no case for raising the overall charges miners pay. We note / are encouraged by the remarks in the foreword of the [Modernising conservation land management](#) document by Minister Potaka that he wants to reduce the costs to business.

¹ <https://www.doc.govt.nz/globalassets/documents/getting-involved/consultations/2024/access-charging/cabinet-paper-growing-third-party-reveue-cabinet-committee-minute.pdf>

73. We will be pleased to work with officials at the appropriate time to consider how mining charges can be reconfigured and improved – including consideration of rent for access to replace the existing hotchpotch of charges. But, as stated, introducing rent for access for mining activities must not result in an increase in the overall fees miners pay.
74. We note that moving to a new charging system, even if the total revenue raised does not increase, that reconfiguring the charges would be disruptive with some miners paying more and some less.

Appendix – Background information – mining on conservation land

This appendix is included to provide background to mining on conservation land (particularly as it relates to exploration and mining access arrangements as opposed to concessions which is the focus of the consultation document the submission is responding to) and to set out why we support a case-by-case approach for applications. We note there is a lot of misunderstanding among the public and politicians on the issue.

Current situation

New Zealand has allowed exploration and mining on conservation land for many decades. Such activity is approved via:

- an exploration or mining permit and associated access arrangement (for exploration and mining of the mineral resource) under the Crown Minerals Act (CMA)
- concessions (for associated mining and environmental monitoring activities, outside of the above) under the Conservation Act (CA)
- resource consents under the Resource Management Act (RMA)
- as well as other regulatory approvals (e.g. Wildlife Act Authorities, Minimum Impact Activity Authorities, etc).

All of these applications are assessed and approved on a case-by-case basis.

DoC issues access arrangements to explore or mine on or in its land under a range of criteria including an assessment of conservation values, and conditions additional or overlapping to those set under the RMA.

Mining's small footprint

Mining's footprint is small. Only around 3,500 hectares or 0.04% of the conservation estate has been disturbed by mining. This is after more than 40 years of mining on conservation land.

The footprint is small because of the realities of commercial mining. Economic mineral resources are hard to find. Mining only occurs where the minerals are present and economically recoverable while meeting the consent conditions imposed under the RMA and other applicable legislation.

Mining also has a much smaller total footprint than many other uses that are allowed on conservation land, including hydro schemes, farming, ski fields, roads and carparking. And, unlike the other land uses, mining has a finite life. Land is returned after rehabilitation, often in a better condition or with better prospects for ecological recovery than prior to when mining commenced.

Conservation land categories

The conservation estate makes up about 30% of New Zealand's land area and 83% of the West Coast's. It includes a range of land categories including conservation areas, national parks, stewardship areas, wildlife areas, amenity areas, ecological areas, and nature reserves.

Thirty-five per cent of the conservation estate is national park land and is off limits to mining and we support this. The industry is not seeking to mine on National Parks and other Schedule 4 land². We support the Government having ruled it out as part of its minerals strategy.

Parcels of land within each of the categories have varying conservation values. Not always does conservation land status equal conservation values of that land. There is no hard and fast rule that some conservation land categories are high conservation value and others are low. Approvals or otherwise of exploration and mining access applications are given on a case-by-case basis which takes account of the conservation value of that parcel of land.

Stewardship land

Stewardship land, which makes up 35% of the total conservation estate, was included in 1987 as part of the re-organisation of Crown land. DoC was to act as steward for this land until its destiny was determined. Some stewardship land has high conservation value and some does not.

Some groups are highlighting the distinction between stewardship land and other categories of conservation land.

The conservation land on which mining is currently occurring, and on which new applications are being made, is not confined to stewardship land. Ecological areas, amenity areas, state forests and other conservation land categories all have small amounts of mining occurring on them. Of the 65 access arrangements that are in place on DoC land, only 43 are on stewardship land.

The stewardship land debate has become something of a diversion (compounded by the occurrence of the current stewardship land review – see below).

Our strongly held view is that when it comes to determining where exploration or mining should be allowed to occur, applying a subjective rule based on land categorisation, stewardship land “yes”, other categories “no”, is deeply flawed.

As stated above, mineral resources can only be sourced from where they are physically located and where the industry is able to access them cost-effectively. There is no certainty that the minerals needed and being sought lie under stewardship land. Also, as stated above, conservation values vary by parcel of land, as much as by category. They also vary over time, as the value and security of supply of different minerals fluctuate.

Ruling in or out vast areas of land with a land categorisation approach significantly reduces the probability of identifying an economic mineral resource that is needed. The case-by-case approach of the current regime, whereby applications are able to be made on any conservation land, excluding National Parks and other Schedule 4 land, and approvals only given following rigorous assessments with conditions imposed to achieve a net positive societal contribution, works well and should continue.

² Schedule 4 land refers to land listed under schedule 4 of the Crown Minerals Act 1991 where access restrictions apply to land within it. Schedule 4 land may be mined if any of the exceptions in section 61(1A) apply. National Parks are listed in the schedule.

Stewardship land review

The stewardship land review currently underway, aims to reclassify stewardship land parcels as other conservation land categories. We question the need for this if the aim is to achieve protection of high value conservation land because such protections already exist under current legislation.

We do not see the conservation land classifications as relevant under a system which allows economic and other non-conservation activities, including mining, to be considered on their merits as the current system does.

Our main interest in the stewardship land review is that exploration and mining's right to apply for access to conservation land generally, and stewardship land specifically, is retained.

Increasing access for mining on conservation land

There is also a misunderstanding in some parts of the public debate that the government is considering increasing access for mining on conservation land (or even opening up access to mining for those who don't realise its already occurring).

As far as we know, this is not the case. It has been misconstrued as such because the Government supports mining and would like to see more of it (as would we). Initiatives such as the Minerals Strategy, Critical Minerals List and others are designed to increase the returns from mining in New Zealand. But they are not changing the current legislative or regulatory settings with regard to conservation land access. Even if there was more access to conservation land the legislative standards and conservation value protections still exist and the introduction of these initiatives has not changed this fact.

There may be more applications but once again, the existing rigorous standards and protections which determine whether an application can proceed or not, continue to be in place so an increase in mining on conservation land won't necessarily occur (for instance, not all exploration activity results in a mine being developed), and it is wrong to construe this as opening up conservation land to increased mining.

Key points

- Exploration and mining currently occurs on conservation land **excluding** National Parks and Schedule 4 land. The Government and industry are not seeking to change the current settings in relation to this.
- Mining on conservation land is infrequent and the footprint small because mineral resources are hard to find and strict hurdles have to be navigated before approval to mine is given.
- Not all exploration on conservation land leads to mining as the exploration phase may rule out mining on economic grounds ie. the cost of mining would be higher than the returns.
- The status quo works well where exploration and mining applications are considered on their merits against the conservation values of the land in question. This case-by-case approach is a more versatile and superior approach than one based on land categorisation because it doesn't rule out potential opportunities before they are considered.
- A third of current mining access agreements are on conservation land categories other than on stewardship land.
- We would be opposed to a system which allowed exploration or mining on stewardship land but not on other conservation land categories.